

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 1:24-CV-22849-BECERRA/TORRES

NERLYNE AUGUSTE,

Plaintiff,

vs.

DESH INCOME TAX &  
IMMIGRATION SERVICES, LLC  
and MAGDALA NICLASSE,

Defendants.

\_\_\_\_\_ /

**PLAINTIFF'S MOTION FOR DISCOVERY HEARING**

Plaintiff, Nerlyne Auguste, through her undersigned counsel and pursuant to U.S. Magistrate Judge Edwin G. Torres' Standing Order Setting Discovery Procedures, requests that the Court convene a Discovery Hearing before Judge Torres on **May 8, 2025**, beginning at **10:30 a.m.**, and as grounds states as follows:

1. On December 12, 2024, Plaintiff served Defendants with her First: (i) Interrogatories to Desh Income Tax & Immigration Services, LLC ("Desh"); (ii) Interrogatories to Magdala Niclasse; and (iii) Requests for Production to Defendants. Under Fed. R. Civ. P. 30(b)(2), Defendants' responses to these written discovery requests were due January 11, 2025.

2. Thereafter, the Parties agreed to conduct the deposition of Defendant Magdala Niclasse, individually and as the Fed. R. Civ. P. 30(b)(6) representative of Desh Income Tax & Immigration Services, LLC, on February 5, 2025.

3. On January 13, 2025, after failing to serve Plaintiff with Responses to her First Interrogatories and Requests for Production, Defendants' then-counsel, Christopher C. Sharp,

filed his first Motion to Withdraw as counsel for Defendants [ECF No. 38]. As grounds for that motion, Mr. Sharp indicated that Defendants had “failed to respond to multiple requests to provide the necessary information and documents for [Mr. Sharp] to respond to Plaintiff’s initial discovery requests[.]” [ECF No. 38 at 3.]

4. The Court denied Mr. Sharp’s first Motion to Withdraw, ordering him to attend the Parties’ mediation scheduled for January 29, 2025, but permitting Mr. Sharp to file a renewed Motion to Withdraw if the case did not settle at mediation. [See ECF No. 39.]

5. Mr. Sharp agreed that Defendants would produce their overdue discovery responses prior to mediation, but on January 27, 2025 notified the undersigned that Defendants had failed to provide him with the necessary documents and information to finalize the responses.

6. Nonetheless, Mr. Sharp served Desh’s partially-drafted, handwritten Interrogatory Responses on January 27, but did not serve: (i) Defendant Niclasse’s Interrogatory Responses; or (ii) Defendants’ Responses to Plaintiff’s Requests for Production.

7. Moreover, the Interrogatory Responses served by Desh were unverified, largely nonresponsive to the questions posed, and completely omitted responses to Interrogatories 4-6 and 10-12.

8. The Parties attended mediation with Neil Flaxman, Esq. on January 29, 2025, which resulted in an impasse. [See ECF Nos. 42 and 43.]

9. After mediation, Defendants then requested an additional extension to serve Defendants’ overdue and incomplete discovery responses, to which Plaintiff agreed.

10. Despite the Parties’ agreement that Defendants would serve their discovery responses before Ms. Niclasse’s deposition scheduled for February 5, 2025, Mr. Sharp sent an email

to Plaintiff's counsel on February 3 stating that Defendants' discovery responses were not yet complete and requesting to postpone the deposition.

11. Thereafter, on February 10, 2025, Mr. Sharp filed his Renewed Motion to Withdraw, again stating that Defendants had failed "to provide the necessary information and documents for [Mr. Sharp] to respond to Plaintiff's initial discovery requests[.]" [ECF No. 44, at 5.]

12. On February 11, 2025, the Court granted Mr. Sharp's request to withdraw from this case, directing Defendants to retain new counsel on or before March 13, 2025. [See ECF No. 45.]

13. On March 14, 2025, Defendants' current counsel, Michael J. Lascelle, filed his Notice of Appearance [ECF No. 47.]

14. On March 17, 2025, Plaintiff's counsel resumed coordinating a date for the deposition of Defendant Niclasse, and requested that Defendants serve their overdue discovery responses prior to the deposition.

15. The Parties agreed to conduct Defendants' deposition on April 4, 2025, and that Defendants would serve their overdue responses by April 2, 2025.

16. On March 31, 2025, Desh again served the same incomplete and nonresponsive Interrogatory Responses that were previously served January 27—but this time included a verification page and certificate of service. Further, Defendants again failed to serve responses to Plaintiff's First Interrogatories to Defendant Niclasse, or to Plaintiff's First Requests for Production.

17. Defendants did not serve Plaintiff with their outstanding discovery responses by April 2, 2025 as agreed, necessitating the cancellation of Ms. Niclasse's deposition scheduled for April 4, 2025.

18. On April 4, 2025, Mr. Lascelle represented to the undersigned that Defendants would serve their outstanding discovery responses on or before April 9, 2025. However, to date, Defendants have failed to do so.

19. On April 22, 2025, the office of the undersigned contacted Defendants' counsel and Judge Torres' Chambers, who confirmed their availability for the date and time of the requested Discovery Hearing.

WHEREFORE, Plaintiff, Nerlyne Auguste, requests that the Court convene a Discovery Hearing before U.S. Magistrate Judge Edwin G. Torres on May 8, 2025, beginning at 10:30 a.m., to address Defendants' failure to timely and adequately respond to Plaintiff's written discovery requests as described above.

**CERTIFICATE OF CONFERRAL**

I hereby certify that, pursuant to S.D. Fla. L.R. 7.1, the undersigned has conferred with all parties or non-parties who may be affected by the relief sought in this motion in a good faith effort to resolve the issues raised herein and has been able to unable to do so.

Respectfully submitted this 22nd day of April 2025.

s/ Patrick Brooks LaRou  
Brian H. Pollock, Esq. (174742)  
brian@fairlawattorney.com  
Patrick Brooks LaRou, Esq. (1039018)  
brooks@fairlawattorney.com  
FAIRLAW FIRM  
135 San Lorenzo Avenue, Suite 770  
Coral Gables, Florida 33146  
Telephone: (305) 230-4884  
*Counsel for Plaintiff*